

**MINUTES OF THE
REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS
September 24, 2008**

A regular called meeting of the City Council of the City of Tyler, Texas, was held Wednesday, September 24, 2008 at 9:00 a.m. in the Council Chamber, City Hall, Tyler, Texas, with the following present:

Mayor: Barbara Bass
Mayor Pro Tem: Charles Alworth
Council Members: Nathaniel Moran
Donald Sanders
Ralph Caraway
Steve Smith (**absent**)
Chris Simons

City Manager: Bob Turner (**absent**)
City Manager Designate: Mark McDaniel
City Attorney: Gary Landers
Airport Manager: Davis Dickson
Budget/Human Resources Director: ReNissa Wade
Development Services Engineer: Michael Wilson
Chief Financial Officer: Daniel Crawford
City Engineer: Carter Delleney
City Police Chief: Gary Swindle
Manager of Water Quality and Production: Mitch Marable
Director of Utilities & Public Works: Greg Morgan
Traffic Engineer: Kirk Houser
City Clerk: Cassandra Brager

INVOCATION

The Invocation was given by Councilmember Caraway.

ZONING

Z-1 APPLICATION C09-08-008A LESTER HANSEN

Request that the City Council consider a request to close a portion of an unimproved right-of-way beginning at the intersection of Earlene Street and Julia Drive and extending approximately 172 feet south. The west side of the right-of-way is adjacent to Lot 11 of NCB 1. The east side of the right-of-way is adjacent to Lot 1 of NCB 7. (O-2008-110)

Motion by Councilman Moran; seconded by Councilman Caraway; motion carried 6 - 0 & approved as presented.

Z-2 APPLICATION Z07-08-074B DAVID MOORE AND CUMBERLAND HOLDINGS

Request that the City Council consider a request to change the zoning from “AG”, Agricultural District, “C-1”, Light Commercial District, “PCD”, Planned Commercial Development District and “R-2”, Two-Family Residential District to “PMXD-1”, Planned Mixed-Use District-1 on Lots 3B, 3E, 3F, 4, 4B, and 5 of NCB 1150 and Lots 1-14 of NCB



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999, 20 Lots totaling approximately 15.70 acres located three lots north of the northeast intersection of Cumberland Road and South Broadway Avenue (7918, 7920, 7922, 7924, and 8300 South Broadway Avenue). (O-2008-111)

Barbara Holly, Director of Planning & Zoning – Stated that The Planning and Zoning Commission, by a vote of 5:0:1, recommends approval of the request to change the zoning from “AG”, Agricultural District, “C-1”, Light Commercial District, “PCD”, Planned Commercial Development District and “R-2”, Two-Family Residential District to “PMXD-1”, Planned Mixed-Use District-1 subject to the following:

1. No building permits can be issued until construction plans or building plans addressing drainage have been approved.
2. The drainage master plan, option 2 to be approved as part of this site plan approval.
3. The issuance of the initial building permit for the development (Phase One) is contingent upon:
 - a. A drainage run-off coefficient of .3 for the site, resulting in a predevelopment amount of run-off;
 - b. Kids’ Depot and Skateplex run-off are to be absorbed into the drainage system with Phase One; and
 - c. All off-site drainage improvements are to be constructed as part of Phase One.
4. An eight feet high masonry wall adjoining residential property to the north must be installed prior to the issuance of any vertical construction permits.
5. An eight feet masonry fence adjoining the residentially zoned property to the east of the development shall be installed prior to the issuance of any Certificate of Occupancy for uses within the 125 feet buffer area and prior to the Demolition of Victoria Park. (See Exhibit A)
6. Retaining walls, where provided, must be engineered when over four feet in height. The Development Standards for Construction are to be amended to specify explicitly when retaining walls are to be used and the design concept for such walls.
7. A 25 feet wide buffer is to extend along the northern and eastern boundaries adjacent to any residential zoning or uses.
8. A 125 feet wide zone restricted to no more than two stories high, with no second floor windows facing the residential areas is placed adjacent to all exterior residential areas. (See Exhibit A)
9. No rear-facing windows will be allowed in the 125 feet, height limited area (See Exhibit A).
10. All structures shall be constructed with a minimum of 75% percent of masonry coverage, exclusive of windows and doors. All permanent structures shall be compatible in architectural style, including the use of masonry elements such as brick, stone, cast stone, or other masonry material or similar quality and appearance as stated in the Development Standards for Construction.
11. All lighting shall be directed away from abutting residential areas and shall be designed and installed so that the level of illumination as measured in foot candles at a height of three feet at the property line does not exceed .2 foot candles in or adjacent to residential uses and 1 foot candle in or adjacent to non-residential areas as stated in the Development Standards for Construction.
12. An eight feet high masonry wall adjacent to the duplexes and the residential property to the east must be installed prior to demolition of the duplexes.

13. Eating establishments may not utilize drive-through windows
14. Nightclub use requires site plan approval by the Planning and Zoning Commission and City Council
15. Gas stations are limited to the Broadway frontage
16. Eliminate those uses specified in Exhibit A.

Motion by Mayor Pro Tem Alworth; seconded by Councilman Simons; motion carried 6 - 0 & approved as presented.

Z-3 APPLICATION S08-08-079B GARDENIO LEIVO

Request that the City Council consider a request for a Special Use Permit Renewal on Lot 49 of NCB 189 of the Williams Subdivision, one lot totaling approximately 6,582 square feet located one lot west of the southwest intersection of West Houston Street and Augusta Avenue (614 West Houston Street). The property is currently zoned “R-MF”, Multi-Family Residential District. The applicant is requesting a renewal for a Special Use Permit to allow for a one chair beauty salon. (O-2008-112)

Motion by Councilman Sanders; seconded by Councilman Caraway; motion carried 6 - 0 & approved as presented.

Z-4 APPLICATION Z08-08-080B EASTVIEW NURSING

Request that the City Council consider a request to approve a site plan amendment on property zoned “PCD”, Planned Commercial District on Lot 3 of NCB 1402, one lot totaling approximately 3.9 acres located one lot east of the northeast intersection of East Front Street and Loop 323 SSE (2902 East Front Street). (O-2008-113)

Motion by Councilman Simons; seconded by Councilman Moran; motion carried 6 - 0 & approved as presented.

Z-5 APPLICATION Z08-08-081B RODRECK AND MARCIE LEE



Request that the City Council consider a request to change the zoning from “R-2”, Two-Family Residential District to “R-1B”, Single Family Residential District on Lots 126 and 127 of NCB 762, two lots totaling approximately 0.34 acres located five lots west of the northwest intersection of West 31st Street and Carter Avenue. (O-2008-114)

Motion by Councilman Caraway; seconded by Councilman Sanders; motion carried 6 - 0 & approved as presented.

Z-6 APPLICATION Z08-08-083B RAMIRO MARTINEZ



Request that the City Council consider a request to change the zoning from “M-1”, Light Industrial District and “R-2”, Two-Family Residential District to “C-2”, General Commercial District on Lot 3A of NCB 148, totaling approximately 0.71 acres located three lots west of the southwest intersection of East Erwin Street and High Avenue (903 East Erwin Street). (O-2008-115)

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Motion by Councilman Simons; seconded by Councilman Caraway; motion carried 6 - 0 & approved as presented.

Z-7 APPLICATION Z08-08-084B T.F.WOLFE & ASSOCIATES

Request that the City Council consider a request to change the zoning from “AG” Agricultural District to “M-1” Light Industrial District on Tract 24B and 24B.3, totaling approximately 2.02 acres located approximately 3,000 feet west of the northwest intersection of South Broadway Avenue and FM 2813 (4556 FM 2813). The applicant is requesting a zoning change to allow for an oil field drilling bit repair business. (O-2008-116)

Motion by Mayor Pro Tem Alworth; seconded by Councilman Moran; motion carried 6 - 0 & approved as presented.

Z-8 APPLICATION Z08-08-086B MIKE COMPTON

Request that the City Council consider a request to approve the site plan amendment on property zoned “POD” Planned Office District on Lots 3A and 8A of NCB 1013, two lots totaling approximately 3.99 acres located 600 feet east of the northeast intersection of Shiloh Road and Donnybrook Avenue (700 Block of Shiloh Road). (O-2008-117)
1. Right out only 2. Masonry sign 3. Add wording about time of garbage pick up “9 am – dark”

Dan Hendricks, 800 Woodhall Ct. – Stated that his concerns were safety, the wall for privacy and then the lighting not to reflect on the rear by neighbor’s property.

David Goughnour, 806 Ashford Ct. – Stated that he wanted the City Council to look at the prior ordinance and adhere to what was on it. 1. Relocating the dumpsters to the west side of the property. 2. Eliminating the parking spaces on the east side. Mr. Goughnour stated that the homeowners would also like to see the 25 foot greenbelt stay as it is and also the 8 foot brick fence is nice to have.

Motion by Mayor Pro Tem Alworth as amended; seconded by Councilman Simons; motion carried 6 - 0 & approved as amended.

Z-9 APPLICATION Z08-08-087B SUPER GOLD STAR

Request that the City Council consider a request to change the zoning from “C-1” Light Commercial District to “C-2” General Commercial District on Lot 20C of NCB 1082, one lot totaling approximately 2.155 acres located at the southeast intersection of Loop 323 ESE and Old Troup Highway (2421 Loop 323 ESE). (O-2008-118)

Motion by Councilman Simons; seconded by Mayor Pro Tem Alworth; motion carried 6 - 0 & approved as presented.

Z-10 APPLICATION Z08-08-088B STEVE THORNTON

Request that the City Council consider a request to change the zoning from “R-TH”, Townhouse Residential District to “C-2”, General Commercial District on Lot 1 of NCB 1660-G, one lot totaling approximately 2.017 acres located approximately 700 feet south of the southeast intersection of Old Noonday Road and Grande Boulevard. (O-2008-119)

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Motion by Mayor Pro Tem Alworth; seconded by Councilman Sanders; motion carried 6 - 0 & approved as presented.

Z-11 APPLICATION Z09-08-089A CB&I



Request that the City Council consider a request to change the zoning from “M-2”, General Industrial District and “R-1A”, Single-Family Residential District to “C-2”, General Commercial District on Lot 5 of NCB 1426, totaling approximately 37.092 acres located five lots north of the northwest intersection of 5th Street and Old Henderson Highway (3102 Old Henderson Highway). (O-2008-120)

Motion by Councilman Simons; seconded by Mayor Pro Tem Alworth; motion carried 6 - 0 & approved as presented.

Z-12 Z09-08-090A HABITAT FOR HUMANITY



Request that the City Council consider a request to change the zoning from “R-2”, Two-Family Residential District to “R-1B”, Single-Family Residential District on Lot 14A of NCB 663, one lot totaling approximately 0.595 acres located at the southwest intersection of South Glenwood Boulevard and Connally Street (813 South Glenwood Boulevard). (O-2008-121)

Motion by Councilman Sanders; seconded by Councilman Caraway; motion carried 6 - 0 & approved as presented.

Z-13 APPLICATION Z09-08-091A ALFRED R. PATE, JR.

Request that the City Council consider a request to change the zoning from “AG”, Agricultural District and “C-1”, Light Commercial District to “R-1A”, Single-Family Residential District on Lot 1, NCB 1 and Lot 5E of NCB 987, two lots totaling approximately 3.6 acres located five lots north of the northwest intersection of Cumberland Road and Wilder Way (314 Wilder Way). (O-2008-122)

Motion by Mayor Pro Tem Alworth; seconded by Councilman Sanders; motion carried 6 - 0 & approved as presented.

Z-14 APPLICATION Z09-08-092A KEVIN KILGORE

Consider a request to change the zoning from “C-1”, Light Commercial District to “C-2”, General Commercial District on Lot 1, Block 1, one lot totaling approximately 0.597 acres located two lots east of the northeast intersection of Paluxy Drive and North Drive (1912 North Drive). The applicant is requesting a zoning change in order bring the existing use into compliance with the current zoning requirements. (O-2008-123)

Motion by Councilman Moran; seconded by Mayor Pro Tem Alworth; motion carried 6 - 0 & approved as presented.

Z-15 APPLICATION Z08-08-093B SAMUEL ARELLANO, JR.



Request that the City Council consider a request to change the zoning from “R-MF”, Multi-Family Residential District to “R-1D”, Single-Family-Attached/Detached District on Lot 72A of NCB 383B, totaling approximately 0.145 acres located one lot north of the

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**northeast intersection of Selman Street and Grand Avenue (621 North Grand Avenue).
(O-2008-124)**

Motion by Councilman Caraway; seconded by Councilman Sanders; motion carried 6 - 0 & approved as presented.

Z-16 Z09-08-094A F.A. AND ETHELYNE TAYLOR

Consider a request to change the zoning from “AG”, Agricultural District to “C-2”, General Commercial District, on approximately one acre of land out of the Don Thomas Quevado Seven League Grant, A-18, known as Tract 19, located approximately 1,200 feet east of the southeast intersection of Highway 155 and Grande Boulevard. (O-2008-125)

Motion by Mayor Pro Tem Alworth; seconded by Councilman Sanders; motion carried 6 - 0 & approved as presented.

PRESENTATIONS

Councilman Caraway exit

P-1 Request that the City Council considering receiving a presentation on recent traffic signal timing updates and on the status of the design of the Southwest Loop 323 Adaptive Control Signal System.

Kirk Houser, Traffic Engineer – Gave a brief recent traffic signal timing update.

ORDINANCE

O-1 Request that the City Council consider adopting the proposed Fiscal Year 2008-2009 property tax rate ordinance, consider adopting the fiscal year 2008-2009 annual budget(s) as originally proposed including approving outside agency contracts, amending the fiscal year 2008-2009 annual budget(s) to include carry-over of funding for some projects that are in progress but will not be completed by September 30, 2008 as originally projected and amending the Fiscal Year 2007-2008 budget(s) to fund the projected fuel costs which are higher than originally expected.

(O-2008-126-Tax Rate) (O-2008-127- Budget)

Larry Meckley, 401 Sutherland Dr. – Spoke in opposition of the budget.

Motion by Councilman Simons; seconded by Councilman Sanders; motion carried 5 - 0 & approved as presented.

O-2 Request that the City Council consider adopting an Ordinance amending certain juvenile fees in Tyler City Code Chapter 1, amending certain Airport parking fees in Tyler City Code Chapter 12, and amending certain water and sewer fees in Tyler City Code Chapter 19. (O-2008-128)

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Staff and the Tyler Airport Advisory Board conducted a review of the airport parking fees established in City Code Chapter 12. On August 12, 2008, the Airport Advisory Board unanimously recommended to the City Council that the ordinance be amended to adjust the rates as follows:

A \$1.50 increase per day per vehicle for the short term parking rate and a \$0.50 increase per day per vehicle for the long term parking rate to cover the rising cost of Airport operations.

The Tyler Water Utilities Department has conducted a review of the water and sewer fees established in City Code Chapter 19. The Department is recommending a 6% increase in rates to cover the rising cost of operations and debt service costs associated with the capital improvements program.

Motion by Mayor Pro Tem Alworth; seconded by Councilman Moran; motion carried 5 - 0 & approved as presented.

- O-3 Request that the City Council consider adopting an ordinance outlining the civil service classification plan and number of authorized civil service positions within the Police and Fire Departments for Fiscal Year 2007-2008 as required by Chapter 143 of the Texas Local Government Code. (O-2008-129)**

Motion by Councilman Simons; seconded by Mayor Pro Tem Alworth; motion carried 5 - 0 & approved as presented.



- O-4 Request that the City Council consider adopting an ordinance amending the Unified Development Code in Tyler City Code Chapter 10 by amending floodplain regulations and definitions to conform more closely to Federal Emergency Management Agency (FEMA) requirements. (O-2008-130)**

Motion by Mayor Pro Tem Alworth; seconded by Councilman Moran; motion carried 5 - 0 & approved as presented.

MISCELLANEOUS

- M-1 Request that the City Council consider renewing the Property and Casualty Insurance contract for the City of Tyler for fiscal year 2008-2009 as the second of two one-year renewal options authorized in 2006. ©**

Motion by Councilman Moran; seconded by Councilman Sanders; motion carried 5 - 0 & approved as presented.



- M-2 Request that the City Council consider approval of a Certificate of Appropriateness for the proposed rehabilitation of a historic landmark located at 1302 West Oakwood Street, Tyler, Texas.**

Motion by Councilman Sanders; seconded by Mayor Pro Tem Alworth; motion carried 5 - 0 & approved as presented.



- M-3** Request that the City Council consider approval of a Certificate of Appropriateness for the proposed alteration of a historic landmark known as the Ramsour House, located at 504 East Charnwood Street, Tyler, Texas.

Motion by Councilman Simons; seconded by Councilman Sanders; motion carried 5 - 0 & approved as presented.

- M-4** Request that the City Council review and consider approving the attached Smith County 9-1-1 District Budget for the Fiscal Year beginning October 1, 2008 and ending September 30, 2009. ©

Motion by Mayor Pro Tem Alworth; seconded by Councilman Sanders; motion carried 5 - 0 & approved as presented.

- M-5** Request that the City Council consider authorizing an Engineering Services Contract with Capco Engineering Inc. for the design of Drainage Improvements from Cedar to Cochran in the amount of \$42,600.00. ©

Motion by Councilman Sanders; seconded by Mayor Pro Tem Alworth; motion carried 5 - 0 & approved as presented.

- M-6** Request that the City Council consider authorizing the City Manager to ratify the purchase of thirteen Ford Crown Victoria Police Package Sedans from the Buy Board dealer Philpott Motors, of Nederland, Texas in the amount of \$282,032.52.

Motion by Mayor Pro Tem Alworth; seconded by Councilman Moran; motion carried 5 - 0 & approved as presented.

(These items are considered to be routine or have been previously discussed, and can be approved in one motion, unless a Council Member asks for separate consideration of an item).

- C-A-1** Request that the City Council consider authorizing the City Manager to give Consent To Sublease of the Greenwood Landfill TX, LP for the construction and operation of a Methane Gas Processing Facility. ©

- C-A-2** Request that the City Council consider authorizing the City Manger to purchase \$16,900.00 worth of daffodil bulbs from Abbott-IPCO for Keep Tyler Beautiful's Project Daffodil.

- C-A-3** Request that the City Council considering authorizing the City Manager to purchase setback vehicle detection equipment from Sensys Networks for the Southwest Loop 323 subsystem in the amount of \$73,566.00.

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- C-A-4** Request that the City Council considering approving a professional services contract with Bucher, Willis and Ratliff, Inc. in the amount not-to-exceed \$48,090.00 for design services for the Hillsboro and Gentry Parkway Safe Routes to School Project.
©
- C-A-5** Request that the City Council consider authorizing the City Manager to award bid number 08-044 to Austin White Lime Company for the annual estimated requirements of Pulverized Quicklime.
- C-A-6** Request that the City Council consider authorizing the City Manager to award bid number 08-045 to LCI Inc. for the estimated annual requirements of Fluorosilicic Acid (Fluoride).
- C-A-7** Request that the City Council consider authorizing the City Manager to award bid number 08-046 to Tanner Industries, Inc. for the estimated annual requirements of Anhydrous Ammonia.
- C-A-8** Request that the City Council consider authorizing the City Manager to award bid number 08-047 to DPC Industries for the estimated annual requirements of Chlorine in 150 lb. cylinders.
- C-A-9** Request that the City Council consider authorizing the City Manager to award bid number 08-048 to DPC Industries the estimated annual requirements of Chlorine in 1 ton cylinder.
- C-A-10** Request that the City Council consider authorizing the City Manager to award bid number 08-049 to Altivia Corporation for the estimated annual requirements of Liquid Aluminum Sulfate.
- C-A-11** Request that the City Council consider authorizing the City Manager to award bid number 08-043 to Praxair Inc. for the estimated annual requirements of Liquid Oxygen.
- C-A-12** Request that the City Council consider authorizing the City Manager to award bid number 08-050 to Premier Chemicals LLC for the estimated annual requirements of Magnesium Hydroxide.
- C-A-13** Request the City Council consider authorizing the City Manager to award bid number 08-051 to Polydyne, Inc. for the estimated annual requirements of Dewatering Polymer.
- C-A-14** Request that the City Council consider authorizing the City Manager to award bid number 08-052 to DPC Industries for the estimated annual requirements of Sulfur Dioxide.

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- C-A-15** Request that the City Council consider authorizing the City Manager to award bid number 08-854 to Chameleon Industries, Inc. for the estimated annual requirements of Filter Aid Polymer.
- C-A-16** Request that the City Council consider authorizing the City Manager to award the fiscal year 2008/2009 annual contract for furnishing plastic water meter boxes and lids to DFW Plastics Inc. of Bedford, Texas.
- C-A-17** Request that the City Council consider authorizing the City Manager to execute the replat of Lots 5-A and 5-B in the Eastside Subdivision Number 5 at Lake Tyler.
- C-A-18** Request that the City Council consider authorizing the City Manager to make payment to Layne-Texas in the amount of \$38,963.50 for emergency work performed on Water Well No. 8.
- C-A-19** Request that the City Council consider authorizing the City Manager to make payment to Pierce Pump Company, LP in the amount of \$31,269.00 for the purchase of a replacement pump for the Shackelford Creek Lift Station.
- C-A-20** Request that the City Council consider authorizing the City Manager to award the purchase of office supplies for the Fiscal Year 08/09, October 1, 2008, thru September 30, 2009, from Office Depot of Fort Worth, Texas, through the U.S. Communities contract.
- C-A-21** Request that the City Council consider authorizing the City Manager to extend the copy paper bid, bid number 06-063, for one year, October 1, 2008 thru September 30, 2009, to Dixie Paper Company of Tyler, Texas.
- C-A-22** Request that the City Council consider ratifying acceptance by the Tyler Public Library of \$10,609 in state aid through the Texas State Library and authorize the City Manager to sign all required assurances and contracts related to award and expenditure of these funds.
- C-A-23** Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 19 to establish sanitary control provisions for protection of public water wells. (O-2008-131)
- C-A-24** Request that the City Council consider approving the Workers' Compensation Stop Loss Insurance policy with Midwest Employers through Hibbs Hallmark and Company for fiscal year 2008-2009 with two one-year renewal options. ©
- C-A-25** Request that the City Council consider renewing the Property and Casualty Insurance claims administration contract for the City of Tyler for fiscal year 2008-2009 as the second and last renewal of two one-year renewal options authorized in 2006. ©

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C-A-26 Request that the City Council consider approving the reconciliation change order and releasing final retainage for the 2008 Slurry Seal Program to East Texas Paving in the amount of \$13,661.93. ©

Motion by Mayor Pro Tem Alworth; seconded by Councilman Sanders; motion carried 5 - 0 & approved as presented.

APPOINTMENTS TO BOARDS

B-1 Request that the City Council consider reappointing James Hartung to the Northeast Texas Public Health District.

Motion by Mayor Pro Tem Alworth; seconded by Councilman Sanders; motion carried 5 - 0 & approved as presented.

CITY MANAGER'S REPORT

1. Expenses for Gustav - \$122,000 & Ike - \$400,000 so far, anticipate reimbursement.
2. Thanks to staff, Chief Schlottach, Deaun, Police, Firefighters, Greg, Bob, Susan & Community Partners.
3. Bulky item pick up week of 9-29 thru 10-10.
4. Firestation #10 Open House 10-8-08 5:30 – 8:30pm.
5. Simons – Appreciation to Charles Hill, Oncor

RECESS FOR EXECUTIVE SESSION – City Council convened into Executive Session at 11:35 am.

As allowed by the Texas Open Meetings Law, Chapter 551 of the Government Code, the City Council may consider the following:

-under Section 551.072 “Real Estate”, deliberation regarding the following:

Discuss the purchase, exchange, lease or value of real property, the public discussion of which would have a detrimental effect on the negotiating position of the City, related to the development of municipal facilities and encouragement of private investment

-under section 551.087 “Economic Development” deliberation regarding the following:

Possible offer of financial or other incentive to a business prospect and to consider financial information about that prospect with which the City is conducting economic development negotiations that could lead to a development in Tyler

Councilman Alworth left

City Council reconvened from Executive Session at 11:47 am with no action taken.

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ADJOURNMENT

Motion by Councilman Sanders to adjourn the meeting at 11:47 am; seconded by Councilman Moran; motion carried 4 - 0 & the meeting adjourned.

**BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS**

A T T E S T:

CASSANDRA BRAGER, CITY CLERK